

The NRC staff has also made use of a draft staff report, NUREG-1493, which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG-1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is three percent of all failures. This study agrees with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks. The PVNGS-1 experience has also been consistent with this.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded 1.0 L_{a1} . Of these, only nine were not due to Type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than 2 L_{a1} ; in one case the leakage was found to be approximately 2 L_{a1} ; in one case the as-found leakage was less than 3 L_{a1} ; one case approached 10 L_{a1} ; and in one case the leakage was found to be approximately 21 L_{a1} . For about half of the failed ILRTs, the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding the L_{a1} (approximately 200 L_{a1} , as discussed in NUREG-1493).

Based on generic and plant-specific data, the NRC staff finds the licensee's proposed one-time exemption to permit a schedular extension of one cycle for the performance of the Appendix Type A test, and the decoupling of the third test to be performed coincident with the completion of the inservice inspection period, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this exemption will not have a

significant impact on the human environment (60 FR 16180).

This exemption is effective upon issuance and shall expire at the completion of the 1R7 refueling outage.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 31st day of March 1995.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35555; File No. SR-NYSE-95-10]

Self-Regulatory Organizations, Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Margin Requirements for Over-the-Counter Options and Interest Rate Composites

March 31, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 9, 1995, the New York Stock Exchange, Inc. ("NYSE") or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend Exchange Rule 431, "Margins" to establish margin requirements for over-the-counter ("OTC") options and interest rate composites. Specifically, the NYSE proposes to establish initial and/or maintenance margin requirements for short positions in OTC options overlying certain instruments which are equal to a specified percentage of the current value of the underlying component and the applicable multiplier, if any, plus any in-the-money amount. The required OTC option margin may be reduced by any out-of-the-money amount, but may not be less than the minimum amount specified for each option category. The percentages of the current value of the underlying components are as follows: (1) For stock and convertible corporate

debt securities, 30%, with minimum margin of 10%; (2) for industry index stock groups, 30%, with minimum margin of 10%; (3) for broad index stock groups, 20%, with minimum margin of 10%; (4) for U.S. Government or U.S. government agency debt securities other than those exempted by Rule 3a12-7 under the Act,¹ 5%, with minimum margin of 3%; (5) for corporate debt securities registered on a national securities exchange and OTC margin bonds as defined in Section 220.2(t) (1), (4), and (5)² of Regulation T under the Act, 15% with minimum margin of 5%; and (6) for all other OTC options, 45%, with minimum margin of 20%.

The text of the proposed rule change is available at the office of the Secretary, NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

¹ Rule 3a12-7 under the Act provides that options that are not traded on a national securities exchange and which relate to securities that are direct obligations of the U.S. or are issued or guaranteed by a corporation in which the U.S. has a direct or indirect interest as shall be designated for exemption pursuant to Section 3(a)(12) of the Act are exempt from all provisions of the Act which by their terms do not apply to "exempted security" or "exempted securities," provided that the securities underlying the option represent an obligation equal to or exceeding \$250,000 in principal amount.

² The NYSE clarified that category five of the proposal applies to OTC margin bonds as defined in Section 220.2(t) (1), (4), and (5) of Regulation T under the Act. Telephone conversation between Richard Nowicki, NYSE, and Yvonne Fraticelli, Attorney, Options Branch, Division of Market Regulation, on March 22, 1995 ("March 22 Conversation"). Section 220.2(t)(1) defines an OTC margin bond as certain debt securities not traded on a national securities exchange; Section 220.2(t)(4) defines an OTC margin bond as a debt security issued or guaranteed as a general obligation by the government of a foreign country, its provinces, states or cities, or a supranational entity, provided that certain credit rating requirements are satisfied; and Section 220.2(t)(5) defines an OTC margin bond as a foreign security that is a nonconvertible debt security that meets the requirements specified in Section 220.2(t)(5).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The NYSE proposes to amend Exchange Rule 431 to establish margin requirements for OTC options and interest rate composites.

OTC options are not issued by the Options Clearing Corporation ("OCC") or listed on any national securities exchange. They are individually tailored agreements between a customer and a broker-dealer designed to reflect the customer's individual needs as to strike price and expiration date. According to the Exchange, these contracts are generally entered into by credit worthy domestic and foreign institutions, mutual funds and insurance companies. The options are usually written for periods of less than one year.

In File No. SR-NYSE-90-25, the NYSE proposed to amend Exchange Rule 431 to establish margin requirements for OTC options developed in conjunction with industry representatives and the Securities Industry Associations's Credit Division on (1) U.S. government securities, and (2) convertible and non-convertible corporate debt securities, including mortgage related securities, and to reduce the existing margin requirements for stocks and for narrow- and broad-based index groups.³ Since filing the proposal in 1990, the Exchange staff has permitted member organizations to enter into option agreements on a pilot basis utilizing the proposed margin requirements. According to the NYSE, 31 member organizations have been granted Exchange approval to participate in the pilot program.

On October 7, 1994, the Exchange withdrew File No. SR-NYSE-90-25 because pilot participants had not provided volatility data sufficient for Commission staff to consider the appropriateness of the proposed margin levels. The Commission indicated that the Exchange should refile its proposal when the NYSE obtained supporting documentation. The price volatility data has now been provided to the NYSE and is being provided to the Commission for review.

The proposed amendments to NYSE Rule 431 are the same as those filed previously with the Commission in File No. SR-NYSE-90-25, except with respect to the requirements for Treasury bonds, when margin levels were increased as a result of the

Commission's review of volatility data. In addition, the Exchange is not proposing to establish margin requirements for mortgage related debt securities (qualified under Section 3(a)(41) under the Act) because volatility data sufficient to assess the adequacy of the requirements on an ongoing basis is not available.

Under the proposal, the NYSE proposes to establish initial and/or maintenance margin requirements for short positions in OTC options overlying certain instruments which are equal to a specified percentage of the current value of the underlying component and the applicable multiplier, if any, plus any in-the-money amount. The required margin may be reduced by any out-of-the-money amount, but may not be less than the minimum amounts specified for each option category. The percentages of the current value of the underlying components⁴ are as follows: (1) For stock and convertible corporate debt securities, 30%, with minimum margin of 10%; (2) for industry index stock groups, 30%, with minimum margin of 10%; (3) for broad index stock groups, 20%, with minimum margin of 10% (4) for U.S. government or U.S. government agency debt securities other than those exempted by Rule 3a12-7 under the Act, 5%, with minimum margin of 3%;⁵ (5) for corporate debt securities registered on a national securities exchange and OTC margin bonds as defined in Section 220.2(r) of Regulation T under the Act, 15%, with minimum margin of 5%;⁶ and (6) for all other OTC options, 45%, with minimum margin of 20%.

OTC options on U.S. government and U.S. government agency debt securities that qualify for exemption pursuant to Rule 3a12-7 under the Act must be for

⁴ The proposal defines the "underlying component" as follows: for stocks, the equivalent number for shares; for industry and broad index stock groups, the current index group value and the applicable index multiplier; for U.S. Treasury bills, notes and bonds, the underlying principal amount; for foreign currencies, the units per foreign currency contract; and for interest rate contracts, the interest rate measure based on the yield of U.S. Treasury bills, notes, or bonds and the applicable multiplier. The "interest rate measure" for short-term U.S. Treasury bills represents the annualized discount yield of a specific issue multiplied by 10 or, for long-term U.S. Treasury notes and bonds, the average of the yield to maturity of the specific issues multiplied by 10.

⁵ Option contracts in this category must be for a principal amount of not less than \$500,000.

⁶ Options transactions on private mortgage pass-through securities and mortgage-related debt securities qualified under Section 3(a)(41) under the Act are not eligible for the margin requirements contained in this provision. Margin requirements for such securities must be computed pursuant to the requirements in category six for all other OTC options.

a principal amount of not less than \$500,000 and the margin for such securities for exempt accounts⁷ will be 3% of the current value of the underlying principal amount on 30-year U.S. Treasury bonds and 2% of the current value of the underlying principal amount on all other U.S. government and U.S. government agency debt securities, plus any in-the-money amount or minus any out-of-the-money amount. The amount of any deficiency between the equity in the account and the margin required shall be deducted in computing the net capital of the member organization under the NYSE's capital requirements on the following basis: (a) On any account or group of commonly controlled accounts to the extent the deficiency exceeds 5% of the member organization's tentative net capital (net capital before deductions on securities), 100% of such excess amount; and (b) on all accounts combined to the extent such deficiency exceeds 25% of a member organization's tentative net capital, 100% of such excess amount, reduced by any amount already deducted pursuant to paragraph (a).

For non-exempt accounts, the required margin will be 5% of the current value of the underlying principal amount on 30-year U.S. Treasury bonds and 3% of the current value of the underlying principal amount on all other U.S. government and U.S. government agency debt securities, plus any in-the-money amount or minus any out-of-the-money amount, provided the minimum margin shall not be less than 1% of the current value of the underlying principal amount.

In addition, the NYSE proposes to incorporate into NYSE Rule 431 the margin requirements for interest rate composites which were proposed by the Chicago Board Options Exchange, Inc. ("CBOE") and approved by the Commission.⁸ Specifically, for interest rate contracts, the initial and/or maintenance margin will be 10% of the underlying component value (*i.e.*, the product of the current interest rate measure and the applicable multiplier),

⁷ Under the proposal, an "exempt account" is a member organization, non-member broker/dealer, "designated account," as defined in NYSE Rule 431(a)(3), any person having net tangible assets of at least \$16 million, or in the case of mortgage-related debt securities transactions, an independently audited mortgage banker with both more than \$1.5 million of net current assets (which may include 3/4 of 1% maximum allowance on loan servicing portfolios) and with more than \$1.5 million of net worth.

⁸ See Securities Exchange Act Release No. 26938 (June 15, 1989), 54 FR 26285 (June 22, 1989) (ordering approving File No. SR-CBOE-87-30).

³ See Securities Exchange Act Release No. 28219 (July 18, 1990), 55 FR 30348 (July 25, 1990).

and the minimum required margin will be 5% of the underlying component value.

The Exchange has agreed to a system for periodic review to ensure the adequacy of the proposed margin requirements and for increasing the requirements on an expedited basis if necessary. The NYSE's monitoring plan will consist of the following:

- Semi-annual reviews of the seven-day price⁹ movements will be done. These volatility reviews will cover both the last six months and the last three years.
- The semi-annual review must indicate a 97.5% confidence level (*i.e.*, the required margin level is adequate for seven-day price movements 97.5% of the time).

- For each option category, reports must be done by two member organizations using their own pricing data or by one member organization using an independent pricing source acceptable to the Exchange. These reports must be submitted to the Exchange.

- If one semi-annual review indicates the margin level is inadequate for an option category, the Exchange will increase the margin requirements by filing a proposal pursuant to Section 19(b)(3)(A) under the Act for immediate effectiveness.

- In order to lower the margin requirements, two consecutive six-month reviews must demonstrate that the lower requirement meets the 97.5% confidence level. Amendments to lower the requirement will be made by filing a proposed rule change pursuant to Section 19(b)(2) under the Act.

- In addition, before lowering the margin requirements, the Exchange will take into consideration other relevant factors, such as current market conditions, member organization views, and margin levels implied from other options products (where similar OCC-issued options exist).

(b) Basis

The NYSE believes that the proposed rule change is consistent with the requirements of the Act and, in particular, furthers the objectives of Section 6(b)(5), which provides that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public. The NYSE believes that the proposed rule change is also consistent with the rules and regulations of the

Board of Governors of the Federal Reserve System for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) under the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should

refer to the file number in the caption above and should be submitted by April 28, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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[Rel. No. IC-20981; File No. 812-9360]

American Skandia Life Assurance Corporation, et al.

March 31, 1995.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of application of exemption under the Investment Company Act of 1940 (the "1940 Act" or "Act").

APPLICANTS: American Skandia Life Assurance Corporation ("Skandia Life"); American Skandia Life Assurance Corporation Variable Account B (Class 3 Sub-Accounts) (the "Account"); and Skandia Life Equity Sales Corporation ("SLESCO").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemption from Sections 26(a)(2)(C) and 27(c)(2) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Account with respect to certain flexible premium deferred variable annuity contracts ("Contracts") and contracts offered in the future that are substantially similar in all material respects to the Contracts ("Future Contracts") that are issued through the Account or any other Accounts established in the future by Skandia Life ("Future Accounts"). Applicants also request that the exemptive relief granted to SLESCO extend to any other National Association of Securities Dealers member broker-dealer controlling, controlled by, or under common control with Skandia Life ("Skandia Life Broker-Dealers"), that may serve in the future as distributor and/or principal underwriter for the Contracts or Future Contracts.

FILING DATE: The application was filed on December 13, 1994 and amended on February 27, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be

⁹ Because the Exchange will submit data covering seven-day price movements, the Exchange agreed to delete references to seven-day price/yield movements in order to clarify the proposal. March 22 conversation, *supra* note 2.

¹⁰ 17 CFR 200.30-3(a)(12) (1994).